IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

WP(C).No. 9571 of 2007(M)

PETITIONER:

PAILY, S/O.VARGHESE, KANYATTUKUDIYIL
HOUSE, KINGINIMATTOM, AIKARANADU SOUTH VILLAGE,
KUNNATHUNADU TALUK, ERNAKULAM DISTRICT.

BY ADV. SRI.KKM.SHERIF
SRI.T.K.SAIDALIKUTTY
SRI.P.A.MOHAMMED ASHROF
SRI.A.A.ZIYAD RAHMAN
SMT.RUKMA S RAJ

RESPONDENTS:

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1. THE DISTRICT COLLECTOR, ERNAKULAM.

2. THE REVENUE DIVISIONAL OFFICER,
MUVATTUPUZHA, ERNAKULAM DISTRICT.

3. THE TAHSILDAR, KUNNATHUNADU TALUK,
ERNAKULAM DISTRICT.

4. THE FEDERAL BANK LTD,
KOLENCHERY BRANCH, ERNAKULAM.

5. K.C.PAULOSE, S/O.CHACKO,
KADALIKANDATHIL HOUSE, AIKARANADU SOUTH VILLAGE,
KUNNATHUNADU TALUK, ERNAKULAM DISTRICT.

R1 TO 3 BY G.P. SRI.P.N.SANTHOSH
R5 BY ADV. SRI.MATHEW SKARIA
R4 BY ADV. SRI.A.ANTONY
SMT.LEELAMMA ANTONY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE PROCEEDINGS DT.1.9.2006 OF R2.

RESPONDENT'S EXHIBITS:

R5(a): PHOTOCOPY OF LETTER DT.9.2.2007 OF R3 TO THE SUB REGISTRAR, PUTHENCRUZ, WITH THE COPY OF DRAFT SALE CERTIFICATE.

R5(b): PHOTOCOPY OF LETTER DT.14.3.2007 OF R3 TO THE PETITIONER.

R5(c): PHOTOCOPY OF LETTER DT.3.4.2007 OF R3 TO THE PETITIONER.

R5(d): PHOTOCOPY OF LETTER OF R3 WITH PHOTOCOPY OF SALE CERTIFICATE EXECUTED BY R2, R.D.O., MUVATTUPUZHA.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.9571 of 2007

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Dated this the 20th day of July, 2007.

JUDGMENT

Heard counsel for the petitioner, Government Pleader and counsel appearing for 5th respondent. The petitioner is an illiterate man whose property is sold in recovery proceedings for recovery of arrears of loan taken by petitioner's son from 4th respondent-Bank. Revenue sale was made on 10.5.2006 and the said sale was confirmed in favour of the 5th respondent on 1.9.2006. The property sold is 10 cents for a sale price of Rs.60,500/-. Apparently, the sale is at below the market price and petitioner's case is that petitioner was not aware of the proceedings as he is not a literate man. The petitioner has offered full payment and compensation to 5th respondent. It is further contended that petitioner has no other property other than his residential property. In the circumstances, W.P. is disposed of directing the petitioner to pay rupees seventy five thousand to the 5th respondent, out of which rupees sixty five thousand is to be paid on or before 31.8.2007 and rupees ten thousand on or before 30.9.2007. As and when full payment is made to the 5th respondent, 5th respondent will return the sale deed executed in his favour to the petitioner

towards acknowlegement of receipt of full amount. On full payment by the petitioner sale will stand set aside with effect from 1.10.2007. On production of the sale deed executed by the third respondent in favour of 5th respondent along with a copy of this judgment by the petitioner, the Sub Registrar will cancel the sale deed, but without granting any refund of stamp duty.

2. Since stamp duty is already borne by petitioner by making reimbursement to 5th respondent under this judgment, there will be direction to the third respondent to remit the full amount recovered to 4th respondent without recovering any collection charges and the 4th respondent will close the account with the payment received from third respondent.

However, if petitioner does not make payment as above to 5th respondent, sale made and documents executed will stand confirmed.

C.N.RAMACHANDRAN NAIR
Judge

pms